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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,186	10/11/2001	Susann Marie Keohane	AUS920010883US1	8800

7590 11/04/2004

Mr. Volel Emile  
P.O. Box 202170  
Austin, TX 78720-2170

EXAMINER
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HAQ, NAEEM U

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/975,186

Applicant(s)

KEOHANE ET AL.

Examiner

Naeem Haq

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*HLW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

These claims are not within the technological arts because there is no recitation of technology in the body of the claim language. *The claimed invention must utilize technology in a non-trivial manner (Ex parte Bowman, 61 USPQ2d, 1665,1671 (Bd. Pat. App. & Inter. 2001))*. Although Bowman is not precedential, it has been cited for its analysis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 6, 10, 11, 15, 19, 20, 24, 28, 29, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Blinn et al. (US Patent 6,058,373).**

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Referring to claim 1, 10, 19, and 28, Blinn teaches a method, program, apparatus, and system for providing a cost of an item to an e-commerce shopper before the shopper checks out comprising:

- calculating the cost of the item selected by the shopper; the real cost of the item including price of the item, shipping cost if any and sales tax if any (Figures 4-6);
- displaying the cost of the item (Figures 4-6).

Referring to claims 2, 11, 20, and 29, Blinn teaches that the step of calculating includes the step of subtracting any discount the shopper may have from the cost of the item (Figures 4, and 5). Blinn discloses that a discount (i.e. "Extra Disc.") can be applied to the price of an item when calculating the total price.

Referring to claims 6, 15, 24, and 33, Blinn teaches that step of calculating the price of all the items in the cart plus cost of shipping if any and sales tax if any minus any discount the shopper may have (Figures 4-6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 3-5, 7-9, 12-14, 16-18, 21-23, 25-27, 30-32, and 34-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn et al. (US Patent 6,058,373).**

Referring to claims 3-5, 7-9, 12-14, 16-18, 21-23, 25-27, 30-32, and 34-36, Blinn does not explicitly disclose that the shopper selects an item by putting a pointing device on or near the item. However, Blinn discloses that a consumer can select buttons on a merchant's HTML page to navigate the merchant's website (column 13, line 44 – column 14, line 39). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate a pointing device in the invention of Blinn. One of ordinary skill in the art would have been motivated to do so in order to provide the consumer with a user-friendly way navigating the website. Blinn does not teach that the step of displaying includes displaying a bubble within which the cost is displayed or that the bubble is displayed above the pointing device. However, Blinn does display the cost of the item in a rectangle (Figures 4-6). Furthermore, Applicant has not disclosed that displaying the cost within a bubble provides an advantage, is used for a particular purpose or solves a stated problem. Moreover, one of ordinary skill in the art would have expected Applicants' invention to perform equally well with Blinn's rectangle because it uniquely identifies the total price on the HTML page. Therefore, it would have been obvious to one of ordinary skill in this art to modify the invention of Blinn to display the cost of the item in any geometric shape to obtain the invention as specified in the claims.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (703)-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

November 1, 2004

  
**WYNN W. COGGINS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**